

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

**ORDER**  
01-CV-719S

2000 TOYOTA TACOMA AUTOMOBILE, ONE  
VEHICLE IDENTIFICATION NUMBER  
4TAWM72N4YZ631871,

Defendant.

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1. This case involves the forfeiture of funds generated by the sale of Defendant automobile, and the claims filed by two individuals – Manuel Hernandez and Maria Gonzalez – that they are entitled to the proceeds from the sale of Defendant vehicle.<sup>1</sup>

2. On September 25, 2008, this Court referred the matter to the Honorable Hugh B. Scott, United States Magistrate Judge, for all pretrial matters pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket No. 27.)

3. On April 10, 2009, the Government filed a Motion to Strike Hernandez's claim based upon his failure to respond to discovery requests. (Docket No. 49.) By way of Report and Recommendation, Judge Scott recommended that the Government's Motion be denied. (Docket No. 60.) No objections to the Report and Recommendation were received from either party within ten (10) days from the date of its service, in accordance

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<sup>1</sup> Gonzalez's claims to the proceeds from the sale of Defendant automobile have been deemed abandoned and her claim has been dismissed. (Docket No. 51.)

with 28 U.S.C. § 636(b)(1)(C) and Local Rule 72.3(a)(3).<sup>2</sup>

4. This Court has carefully reviewed Judge Scott's Report and Recommendation as well as the underlying papers and will accept Judge Scott's recommendation.

IT IS HEREBY ORDERED, that this Court accepts Judge Scott's Report and Recommendation (Docket No. 60) in its entirety, including the authorities cited and the reasons given therein.

FURTHER, that the Government's Motion to Strike (Docket No. 49) is DENIED.

SO ORDERED.

Dated: August 17, 2009  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge

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<sup>2</sup> At a status conference held before Judge Scott on August 5, 2009, Hernandez advised the court that he has agreed to accept a settlement offer extended by the Government. (Docket No. 64.) Judge Scott directed the parties to submit a stipulation of discontinuance to this Court. (Id.)